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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11                  MAVERICK GAMING LLC,

12                  Plaintiff,

13                  v.

14                  UNITED STATES OF AMERICA et al.,

15                  Defendants.

16                  CASE NO. 3:22-cv-05325-DGE

17                  ORDER GRANTING MOTION  
18                  FOR RELIEF FROM SUMMARY  
19                  JUDGMENT DEADLINES

20                  I           INTRODUCTION

21                  This matter comes before the Court on Intervenor Shoalwater Bay Tribe's Motion for  
22                  Relief from Summary Judgment Deadlines. (Dkt. No. 69.) Shoalwater Bay Tribe ("the Tribe")  
23                  simultaneously filed a Motion for Limited Intervention (Dkt. No. 68) and proposed Motion to  
24                  Dismiss. (Dkt. No. 68-1.) In its Motion for Relief from Summary Judgment Deadlines, the  
25                  Tribe asks the Court to suspend the current briefing schedule (Dkt. No. 63) until the Court has  
26                  ruled on the Tribe's Motion for Limited Intervention, and if granted, the Tribe's Motion to  
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1 Dismiss. (Dkt. No. 69 at 12.) The Washington State Defendants (“State Defendants”)<sup>1</sup> join the  
 2 Tribe’s motion to temporarily suspend the summary judgment deadlines. (Dkt. No. 72.)  
 3 However, Plaintiff Maverick Gaming LLC (“Maverick”) opposes the Tribe’s motion. (Dkt. No.  
 4 71.) Having reviewed the motion, the responses, and the relevant portions of the record, the  
 5 Court GRANTS the Tribe and State Defendants’ motion.<sup>2</sup>

## 6 II BACKGROUND

7 This litigation concerns compacts between twenty-nine federally recognized tribes  
 8 (“Washington Tribes”) and the state of Washington entered under the Indian Gaming Regulatory  
 9 Act (“IGRA”), 25 U.S.C. §§ 2701-2721, and the Revised Code of Washington § 9.46.360 (“the  
 10 Compacts”). (Dkt. No. 66 at 3.) The Compacts permit Washington Tribes to offer most forms  
 11 of “casino-style gaming (known as ‘class III’ gaming under the IGRA),” most of which are  
 12 legally prohibited for other non-tribal entities. (*Id.*) Recent amendments to several of these  
 13 Compacts (“the Compact Amendments”) also allow multiple Washington Tribes to offer sports  
 14 betting at their casinos, although it remains illegal for other casinos throughout the state. (*Id.*)

15 On January 11, 2022, Maverick filed a Complaint against the United States as well as  
 16 associated federal and Washington state officials, alleging the Compacts and Compact  
 17 Amendments create a “gaming monopoly,” in violation of the IGRA, the Constitution’s  
 18 guarantee of equal protection, and the Constitution’s anti-commandeering doctrine. (*See* Dkt.  
 19 Nos. 1 at 22–28; 71 at 7.) Maverick initiated the lawsuit in the United States District Court for

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 21 <sup>1</sup> On August 10, 2022, Defendants Steve Conway, Robert Ferguson, Tina Griffin, Jeff Holy, Jay  
 22 Inslee, Shelley Kloba, Sarah Lawson, Alicia Levy, Julia Patterson, Kristine Reeves, Bud  
 23 Sizemore, and Brandon Vick (“State Defendants”) filed a Notice of Joinder in which they stated  
 24 their intention to join the Tribe’s Motion for Relief from Summary Judgment Deadlines. (Dkt.  
 No. 72.)

<sup>2</sup> The Tribe requests oral argument on this matter. (Dkt. No. 73 at 1.) The Court believes the  
 Tribe’s motion can be determined without oral argument. *See* LCR 7(b)(4).

1 the District of Columbia; however, on April 28, 2022, the court transferred the action to the  
2 Western District of Washington. Once transferred, this Court issued an order about initial  
3 scheduling dates. (Dkt. No. 57.)

4 On June 21, 2022, the parties submitted a stipulated motion, asking the Court to vacate its  
5 initial order and instead impose a briefing schedule on dispositive cross-motions. (Dkt. No. 60 at  
6 1.) The parties agreed factual discovery was unnecessary. (*Id.*) The Court granted the motion  
7 and adopted the deadlines agreed to by the parties. (Dkt. No. 63.) In accordance with the new  
8 briefing schedule, Maverick filed an unopposed First Amended Complaint on July 1, 2022. (See  
9 Dkt. Nos. 64; 66.)

10 On July 29, 2022, the Tribe informed Maverick it would move to intervene and dismiss  
11 the action based on the Tribe’s sovereign immunity. The Tribe informed Maverick it would seek  
12 relief from the briefing schedule deadlines and request a stay pending the Court’s ruling on its  
13 motions. (Dkt. Nos. 73 at 5–6; 74 at 2.) Maverick relayed its intent to oppose all three motions.  
14 (Dkt. No. 74 at 2.) The Tribe again contacted Maverick on August 1, 2022, asking Maverick to  
15 reconsider its opposition to the Tribe’s motion for relief from deadlines given that its Motion for  
16 Summary Judgment was due August 12, 2022, the same day the Tribe’s motion was ripe for  
17 consideration. (Dkt. Nos. 73 at 6; 74 at 2.) The Tribe proposed a telephonic conference with the  
18 Court under Local Civil Rule 7(i), to stay the case before August 12, 2022. (Dkt. No. 74 at 2.)  
19 Maverick rejected the Tribe’s proposed telephonic conference and continued to oppose a stay.  
20 (*Id.*)

### III DISCUSSION

#### A. Legal Standards for Modifying Case Deadlines

The Federal Rules of Civil Procedure do not expressly provide for a stay of proceedings; however, “[a] district court has inherent power to control the disposition of the causes on its docket in a manner which will promote economy of time and effort for itself, for counsel, and for litigants.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). In exercising its discretion to stay a pending proceeding, the Court must consider the following competing interests: (1) “possible damage which may result from the granting of a stay,” (2) “hardship or inequity which a party may suffer in being required to go forward,” and (3) “orderly course of justice measured in terms of the simplifying or complicating of issues[.]” *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109–10 (9th Cir. 2005) (internal citations omitted).

Moreover, a district court may modify the case schedule and enlarge deadlines for good cause. *See Fed. R. Civ. P. 16(b)(4)* (“A schedule may be modified only for good cause and with the judge's consent.”); *Fed. R. Civ. P. 6(b)* (“When an act may or must be done within a specified time, the court may, for good cause, extend the time . . . if a request is made, before the original time or its extension expire.”).

#### **B. Motion for Relief from Summary Judgment Deadlines**

The Tribe asks the Court to suspend the Summary Judgment Deadlines, set forth in the Court’s Order of June 28, 2022, until the Court has deliberated and ruled on the Tribe’s Motion for Limited Intervention (Dkt. No. 68), and if the Motion for Limited Intervention is granted, the Tribe’s Motion to Dismiss (Dkt. No. 68-1). (Dkt. No. 69 at 12.) In short, the Tribe argues it is an indispensable party that cannot be joined because of sovereign immunity, and therefore, the

1 case should be dismissed under Federal Rules of Civil Procedure 12(b)(7) and 19. (Dkt. No. 69  
 2 at 7.)

3       1. Maverick Fails to show Undue Prejudice

4           Maverick argues it will suffer prejudice if the Court disrupts the agreed-upon briefing  
 5 schedule and “Maverick’s settled expectations.”<sup>3</sup> (Dkt. No. 71 at 9.) Specifically, Maverick  
 6 identifies two sources of prejudice: (1) Defendants will have longer to prepare their dispositive  
 7 motions given Maverick has already filed its Motion for Summary Judgment and (2) extending  
 8 the suit will prolong Maverick’s alleged competitive injury caused by the Compacts. (*Id.* at 9–  
 9 10.)

10          These arguments are unavailing. As the Tribe rightly points out, Maverick could have  
 11 avoided the prejudice of which it now complains by stipulating to the Tribe’s motion or  
 12 participating in a telephonic conference with the Court. (Dkt. No. 73 at 6.) Had Maverick done  
 13 so, it need not have filed its Motion for Summary Judgment on August 12, 2022. Maverick  
 14 cannot now claim a circumstance it permitted to occur has caused undue prejudice. Maverick’s  
 15 argument that delay will prolong its competitive injury assumes its allegations are meritorious,

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 17          <sup>3</sup> One of Maverick’s primary arguments is the Tribe’s Motion for Limited Intervention is  
 18 untimely. Federal Rule of Civil Procedure 24 requires an intervention motion to be timely. *See*  
 19 Fed. R. Civ. P. 24(a), (b). Indeed, under permissive intervention, “the court must consider  
 20 whether the intervention will unduly delay . . . the adjudication of the original parties’ rights.”  
 21 Fed. R. Civ. P. 24(b)(3). In this Order, the Court does not decide whether the Tribe’s Motion for  
 22 Limited Intervention fulfills the timeliness requirement. Yet Maverick fails to establish in its  
 23 opposition to the Tribe’s Motion for Relief from Summary Judgment Deadlines that the Tribe’s  
 24 intervention motion is so untimely to not warrant a stay of proceedings to give the matter full  
 consideration. As the Tribe asserts, its Motion for Limited Intervention was made around one  
 month after Maverick filed its First Amended Complaint. Further, the case cited by Maverick in  
 support of its timeliness argument presents a substantially greater delay. (*See* Dkt. No. 71 at 9–  
 10) (citing *Eastman Chem. Co. v. Nestle Waters Mgmt. & Tech.*, 2014 WL 1316772, at \*7  
 (S.D.N.Y. Apr. 1, 2014)). In *Eastman*, the court denied the defendants request to amend its  
 answer to add a third counterclaim because it would require substantial new factual discovery.  
 The circumstances are not analogous to this case.

1 which is yet to be determined. Although the Court acknowledges the parties' interest in swiftly  
 2 resolving litigation (*see* Dkt. No. 71 at 10 (collecting cases)), the proposed stay will not  
 3 indefinitely postpone the proceedings. Since the parties agree this case does not require factual  
 4 discovery, the litigation is unlikely to stretch beyond comparable matters.

5       2. Hardship or Inequity Faced by the Tribe

6       Related to the second consideration—the hardship or inequity the Tribe would suffer if  
 7 compelled to move forward—Maverick argues the Tribe would face no adverse consequence  
 8 given that its suit does not seek relief from the Tribe. (*See* Dkt. No. 71 at 12.) But, even if the  
 9 Tribe is not currently a named defendant, it may be affected by the outcome given this suit could  
 10 nullify the Washington Tribe's Compacts. Maverick concedes this interest although it contests  
 11 the Tribe qualifies as an indispensable party. (*Id.* at 14.) Despite its status as a party, the Tribe  
 12 seeks the opportunity to decide whether to waive sovereign immunity and intervene should the  
 13 Court deny its motion to dismiss. (Dkt. No. 73 at 8.) This opportunity may be denied if forced  
 14 to proceed according to the briefing schedule. On balance, the hardship faced by the Tribe if  
 15 compelled to move forward outweighs the potential prejudice to Maverick if the deadlines are  
 16 stayed.

17       3. A Stay Permits Orderly Consideration of the Issues

18       As for the third factor, whether the Tribe is an indispensable party and entitled to  
 19 sovereign immunity is a threshold inquiry that should be addressed before the parties' summary  
 20 judgment motions to conserve judicial and litigant resources. *See, e.g., Dine Citizens Against*  
*21 Ruining Our Env't et al. v. United States Bureau of Indian Affairs et al.*, 3:16-cv-08077-SPL (D.  
 22 Ariz. Oct. 28, 2019) (Dkt. No. 49 at 2) (staying case scheduling deadlines pending resolution of  
 23 the Navajo Transitional Energy Company LLC's motion to dismiss).

1 Maverick argues the Tribe's Motion for Limited Intervention and Motion to Dismiss do  
 2 not present threshold issues because they are not jurisdictional—the question whether the Tribe  
 3 is an indispensable party under Rule 19 is a matter of equity. However, whether equity demands  
 4 granting the Tribe's intervention is an issue that should be considered fully before making any  
 5 decisions on the merits of the underlying litigation. Moreover, notwithstanding the equity versus  
 6 jurisdictional distinction, the Tribe's Motion to Dismiss invokes tribal sovereign immunity and  
 7 district courts have stayed discovery and further proceedings where immunity is raised. *See*  
 8 *Zabeti v. Arkin*, 2014 WL 1764358, at \*3 (D. Nev. 2014) (citing *Wood v. McEwen*, 644 F.2d 797,  
 9 801 (9th Cir. 1981)).

10 Maverick contends orderly consideration is not served by a stay because the Tribe raises  
 11 meritless issues; specifically, the Tribe does not satisfy the standard required for an indispensable  
 12 party. (Dkt. No. 71 at 13–15.) The Court does not find Maverick's arguments on the merits of  
 13 the Tribe's Motion to Dismiss compelling at this point, given the Court has yet to consider the  
 14 full briefing and decide the Tribe's motions. By modifying the agreed-upon briefing schedule,  
 15 the Court avoids engaging in piecemeal consideration of these issues. The Court therefore finds  
 16 good cause to modify the briefing schedule set forth in its June 28, 2022 Order (Dkt. No. 63).

#### 17 IV CONCLUSION

18 Accordingly, and having considered Intervenor Shoalwater Bay Tribe's motion, the  
 19 briefing of the parties, and the remainder of the record, the Court finds and ORDERS that  
 20 Shoalwater Bay Tribe's Motion for Relief from Summary Judgment Deadlines (Dkt. No. 69) is  
 21 GRANTED.

22 1. The briefing schedule (Dkt. No. 63) is STAYED.

1       2. The parties shall meet and confer to set deadlines for dispositive motions and submit  
2                    a joint motion to the Court no later than 10 days after the Court's decision on the  
3                    Tribe's Motion for Limited Intervention.

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5       Dated this 22nd day of August, 2022.

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David G. Estudillo  
United States District Judge